UNITED STATES OF AMERICA DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OFFICE OF ADMINISTRATIVE LAW JUDGES

The Secretary, United States)	
Department of Housing and Urban)	
Development, on behalf of JoLynn Rainer,)	
and other Aggrieved Persons,)	
)	
Charging Party,)	
)	HUDALJ No.:
V.)	FHEO No.: 05-05-0792-8
)	
Marlene McGee, Margaret Alden,)	
Croix Management Company, and Cannon)	
Valley Apartments Limited Partnership,)	
)	
Respondents.)	
)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

On or about April 21, 2005, Complainant JoLynn Rainer ("Complainant Rainer") timely filed a verified complaint with the U.S. Department of Housing and Urban Development ("HUD"), alleging that Respondents Marva Allen and Cannon Valley Apartments violated the Fair Housing Act, as amended in 1988, 42 U.S.C. §§ 3601 *et seq.* (the "Act"), and discriminated against Complainant Rainer on the basis of race by making discriminatory statements and discouraging Complainant from renting the subject unit in violation of 42 U.S.C. §§ 3604 (a) and (c). The complaint was amended on June 16, 2005, to include the following Respondents Marlene McGee, Margaret Alden, Croix Management Company, and Cannon Valley Apartments Limited Partnership.¹

¹ In Complainant Rainer's written statement to HUD, she named Marlene McGee as the person she spoke

Complainant Rainer also withdrew her complaint against Respondent Marva Allen by signing a "Voluntary Withdrawal of Housing Discrimination Complaint" form on February 21, 2006. The error is HUD's, and not Complainant's.

with on the phone from Cannon Valley Apartments. At intake, in an attempt to locate Respondent McGee, HUD incorrectly named Marva Allen as the person Complainant Rainer spoke to from Cannon Valley Apartments. HUD obtained the erroneously named Respondent's information from an identically named "Cannon Valley Apartments" complex in Northfield, Minnesota, where Marva Allen is employed. The complaint was amended on June 16, 2005, removing Respondent Marva Allen as a Respondent.

Complainant Rainer also amended the date of the alleged violation from February 17, 2005, to March 7, 2005.²

The Act authorizes the issuance of a Charge of Discrimination on behalf of an aggrieved person following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. §3610(g)(1) and (2). The Secretary has delegated to the General Counsel (54 Fed. Reg. 13121), who has re-delegated to the Regional Counsel (67 Fed. Reg. 44234), the authority to issue such a charge, following a determination of reasonable cause by the Assistant Secretary for Fair Housing and Equal Opportunity or his or her designee.

The Office of Fair Housing and Equal Opportunity Region V Director, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred in this case based on race, and has authorized and directed the issuance of this Charge of Discrimination.

II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned Complaint and Determination of Reasonable Cause, Respondents Marlene McGee, Margaret Alden, Croix Management Company, and Cannon Valley Apartments Limited Partnership are charged with discriminating against Complainant JoLynn Rainer, and other aggrieved persons, on the basis of race in violation of 42 U.S.C. §§ 3604(a) and (c) of the Act as follows:

- 1. It is unlawful to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race. 42 U.S.C. § 3604(a).
- 2. It is unlawful to make, print or publish, or cause to be made, printed, or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, or an intention to make any such preference, limitation, or discrimination. 42 U.S.C. §3604(c).
- 3. The Cannon Valley Apartments complex ("subject property") is located at 1201 North First Street and 1215 North First Street, Cannon Falls, Minnesota. The subject property consists of two, twelve-unit, two-floor apartment buildings.
- 4. The property is a federally subsidized housing development funded by the United States Department of Agriculture ("USDA"), Office of Rural Development.³

_

² In Complainant Rainer's written statement to HUD, she alleged March 7, 2005, as the date of the alleged violation. However, Complainant's initial complaint referred to February 17, 2005, the date Complainant Rainer received her Section 8 Voucher, as the date of the alleged violation. HUD incorrectly identified the date in Complainant Rainer's initial complaint as February 17, 2005. The complaint was later amended to reflect the correct date of the alleged violation to be March 7, 2005.

- 5. Pursuant to USDA documents, Respondent Cannon Valley Apartments Limited Partnership ("Respondent Cannon Valley") owns Cannon Valley Apartments. Respondent Margaret Alden ("Respondent Alden") is the general partner of Respondent Cannon Valley. The business mailing address for Respondent Cannon Valley is 9979 Valley View Road, Eden Prairie, Minnesota.
- 6. At all times relevant to this Charge, Respondent Croix Management Company ("Respondent Croix") was the management company for Respondent Cannon Valley.
- 7. At all times relevant to this Charge, Respondent Marlene McGee ("Respondent McGee") was the on-site manager for the subject property and resided at 1201 North 1st Street, Unit 103, Cannon Falls, Minnesota 55009.
- 8. Complainant Rainer is an African-American female. At the time of the alleged incident of discrimination, Complainant had four children ages approximately 5, 10, 11, and 12 years old.
- 9. In or around 2004, Complainant Rainer decided to make a better life for her family and move out of East Chicago, Indiana. Upon a recommendation from a family friend, Complainant Rainer decided to move to Minnesota. Around this time, Complainant Rainer applied for a Section 8 Voucher with the Southeastern Minnesota Multi-County Housing and Redevelopment Authority ("SEMMCHRA"). Complainant Rainer was placed on a waiting list.
- 10. In or around February 2005, Complainant Rainer received a Section 8 Voucher from SEMMCHRA and began looking for an apartment for herself and her children. Although, SEMMCHRA provided Complainant Rainer with a landlord contact list, Complainant Rainer's housing search was unsuccessful, as many units were not available or did not offer three or four-bedroom apartments. As a result, Complainant Rainer initiated her own housing search via the Internet.
- 11. In March 2005, Complainant Rainer located an advertisement online in the *Beacon* newspaper. The advertisement advertised one, two or three-bedroom apartments at Cannon Valley Apartments, in Cannon Falls. The telephone numbers listed in the advertisement were (651) 465-6841 and (507) 263-0728.
- 12. On or about March 7, 2005, Complainant Rainer telephoned (651) 465-6841 and spoke to an unidentified woman about an apartment at Cannon Valley Apartments. Complainant Rainer asked the woman whether Cannon Valley Apartments accepted Section 8. The woman responded that they did accept Section 8 and informed Complainant Rainer that if she had any questions about the apartment, she would

3

³ Complainant Rainer's Title VI complaint was referred to the USDA, Office of Rural Development, as that office federally funds the subject property and has jurisdiction over Complainant Rainer's Title VI complaint.

- have to contact the manager, "Marlene," at the subject property at the following telephone number (507) 263-0728.
- 13. Shortly after the telephone call referenced in paragraph 12, Complainant Rainer telephoned (507) 263-0728 and spoke to a woman who identified herself as "Marlene." Complainant Rainer inquired about the availability of a three-bedroom unit. Respondent McGee informed Complainant Rainer that a three-bedroom unit was still available. Complainant then asked Respondent McGee to describe the apartment. In response, Respondent McGee stated that the apartment rented for \$475.00, plus electric and cable.
- 14. Respondent McGee then described the apartment amenities and an appointment to view the unit was scheduled for March 10, 2005. After Respondent McGee provided Complainant Rainer with general directions to the subject property, Complainant Rainer inquired about the school system in Cannon Falls. Respondent McGee asked Complainant Rainer how many children she had, the ages of her children and whether her children were well behaved. Complainant Rainer responded that she had four children, ages 12, 11, 10 and 5, and informed Respondent McGee that her children were well behaved. In response, Respondent McGee informed Complainant Rainer of a previous female tenant, who had five black children that resided with her at the subject property. Respondent McGee continued by stating that "all of her black children sold drugs."
- 15. In the course of the conversation, Respondent McGee informed Complainant Rainer that minorities were "tolerated" at Cannon Valley Apartments, but that she was unsure about how minorities would be "tolerated" in the town of Cannon Falls. Respondent McGee continued by informing Complainant Rainer that a Somali family previously resided at the subject property and informed Complainant Rainer that the Somali husband tried to kill his wife.
- 16. In the course of the conversation, Respondent McGee also informed Complainant Rainer that more minorities worked and lived in Pine Island, Minnesota, than in Cannon Falls and that she was aware of this because her mother resides in Pine Island. At no time during the conversation did Complainant Rainer inquire about previous tenants or about Respondent McGee's experience with residents in general at the subject property. At the end of the conversation, Complainant Rainer thanked Respondent and ended the call.
- 17. After the above telephone conversation, Complainant Rainer felt discouraged from renting a unit at the subject property. Complainant Rainer's purpose for relocating to Minnesota was to relocate to a safe neighborhood for her children. After Respondent McGee made the above discriminatory statements, Complainant Rainer feared for her family's safety, as the community was not accepting of minorities.
- 18. Shortly after the telephone conversation, Complainant Rainer reviewed pamphlets given to her at the SEMMCHRA Section 8 briefing, which included information

- about fair housing. After reviewing this information and speaking with her sister, Complainant Rainer decided to file a fair housing complaint.
- 19. In order for Complainant Rainer to file her fair housing complaint, on March 9, 2005, Complainant Rainer called Respondent McGee at (507) 263-0728 to obtain the exact address for the subject property. When Complainant Rainer indicated to Respondent McGee that she had called "a few days ago," Respondent McGee asked her if she was the "lady from Indiana." Complainant Rainer indicated that she was the caller from Indiana, and then asked Respondent McGee for the address. Respondent McGee provided Complainant Rainer with the address for the subject property and the call ended.
- 20. As a result of the discriminatory statements made by Respondent McGee, Complainant Rainer did not meet with Respondent McGee for the scheduled March 10, 2005, appointment to view the unit as she felt discouraged from inspecting the available unit, in addition to becoming uncomfortable with residing in a community not accepting of minorities.
- 21. HUD's investigation revealed a witness, Rekita Jenkins, also telephoned Respondent McGee in or around March 2005, seeking housing. Rekita Jenkins revealed during her interview with the HUD investigator that Respondent McGee made statements such as "mostly whites live in the area," and "not too many blacks live in the area" at the time Rekita Jenkins applied for a unit at the subject property.
- 22. On or about May 4, 2005, the subject unit was rented to a non-minority tenant.
- 23. As a result of Respondents' discriminatory conduct, Complainant Rainer and her minor children have suffered damages, including economic loss, emotional distress and inconvenience. Because of Respondent McGee's discriminatory conduct, Complainant Rainer was discouraged from renting the subject unit after hearing that Respondent McGee did not know if minorities were accepted in the town of Cannon Falls and that most African-Americans lived in Pine Island, Minnesota. Complainant was shocked and hurt after hearing these statements, as this was her first experience with racism. Complainant wanted to make a better life for herself and her children and felt that it would not be safe for her family to move to the subject property. Complainant Rainer also felt judged by Respondent McGee because she felt that Respondent McGee was comparing her to previous black tenants in the building.
- 24. As a result of Respondents' discriminatory conduct, not only did Complainant Rainer remain in the unsafe neighborhood of East Chicago, Indiana, but as a result of her inability to locate housing in Minnesota, Complainant Rainer subsequently lost her Section 8 Voucher. Complainant Rainer's subsequent housing situation negatively impacted Complainant and her family. Complainant Rainer's concern for the safety of her children residing in an unsafe neighborhood continues daily.
- 25. Respondent McGee stated an illegal preference in violation of § 3604(c) when Respondent McGee informed Complainant Rainer that she was not sure how

minorities were accepted in Cannon Falls, that more minorities worked and lived in Pine Island, and shared negative information about previous tenants of African descent. In so doing, Respondent McGee made statements with respect to the rental of a dwelling that indicated a preference, limitation, and discrimination based on race in violation of 42 U.S.C. §3604(c).

26. Respondent McGee otherwise made a unit unavailable to Complainant Rainer in violation of § 3604(a) when Respondent McGee made the statements detailed in paragraphs 14, 15, 16 and 24, discouraging Complainant Rainer from inspecting a unit or applying at the subject property, as these statements indicated that minorities were not welcomed in the area. In so doing, Respondents committed unlawful discrimination by otherwise making unavailable a unit to Complainant Rainer and her family on the basis of race in violation of 42 U.S.C. §3604(a).

III. CONCLUSION

WHEREFORE, the Secretary of the U.S. Department of Housing and Urban Development, through the Office of the General Counsel, and pursuant to Section 3610(g)(2)(A) of the Act, hereby charges the Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. §§ 3604(a) and (c) of the Act, and prays that an order be issued that:

- 1. Declares that the discriminatory housing practices of the Respondents as set forth above violate the Fair Housing Act, as amended, 42 U.S.C. §§ 3601 *et seq.*;
- 2. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with any of them from discriminating because of race against any person in any aspect of the purchase or rental of a dwelling;
- 3. Awards such damages as will fully compensate Complainants JoLynn Rainer and her children, aggrieved persons, their actual damages caused by Respondents' discriminatory conduct pursuant to 42 U.S.C. §§ 3604(a) and (c); and
- 4. Awards a civil penalty against Respondents for each violation of the Act committed, pursuant to 42 U.S.C. § 3612(g)(3).

The Secretary of HUD further prays for additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Courtney Minor Regional Counsel Region V

Respectfully submitted,

Lisa M. Danna-Brennan Supervisory Attorney-Advisor for Fair Housing

Barbara Sliwa
Trial Attorney
U.S. Department of Housing and
Urban Development
Office of Regional Counsel-Region V
77 West Jackson Boulevard, Room 2633
Chicago, Illinois 60604-3507
Tel. (312) 353-6236, extension 2613

Fax: (312) 886-4944

Date: MARCH 28, 2006